

Public Defender at Heart, John Kecker Battles It Out In IP Arena

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The deep pockets of the warring parties are one of the best things about intellectual property litigation, says San Francisco-based attorney John Kecker. It's amazing how lawyers can spend clients' money "on anything you can possibly think of that will be helpful" to win a case, he says.

Right now Kecker is deeply involved in a trade secrets case between Cadence Design Systems and Avant Corporation; Kecker's firm is representing San Jose, Calif.-based Cadence. Earlier this year, six Avant employees were convicted in a parallel criminal trade secrets case, and Avant was ordered to pay \$195 million in restitution to Cadence. It was one of the largest restitution orders ever given.

The 57-year-old attorney, a founding partner in Kecker & Van Nest, has handled other heavy-duty intellectual property cases as well as many important criminal matters throughout his 31-year career. But, ironically, he's still probably best known for his work on the Iran-Contra case during the first Bush administration.

In 1989, Kecker prosecuted and convicted Marine lieutenant colonel Oliver North on three counts, including shredding and altering official documents, and accepting an illegal gratuity. However, the ruling was later overturned on appeal, on the grounds that immunized testimony may have tainted the grand jury's indictment.

The Iran-Contra case meant a great deal to Kecker, himself a former marine and wounded veteran of the Vietnam war. He felt that North was a disgrace to the corps. "I had the satisfaction of exposing North," he says.

Kecker decided to go to law school while lying in a hospital bed, recovering from war wounds that left him without a functioning elbow. "In those days law school was the last refuge of the generalist, and I had no idea what I was going to do," he says.

Kecker received his law degree at Yale University in 1970 and began clerking for retired Supreme Court Chief Justice Earl Warren.

In 1971, Kecker went on to become an assistant federal public defender in San Francisco, a decision motivated by Warren, a former law professor, and by Kecker's strongly Democratic parents.

After two years of defending criminal cases and winning most of them, Kecker formed the firm that was to become 45-lawyer Kecker & Van Nest.

Over the years he's had his share of high-profile criminal cases, including that of San Francisco criminal defense counsel Patrick Hallinan, whose client turned on him and implicated Hallinan in a drug conspiracy case in Nevada. Thanks to Kecker, Hallinan was exonerated.

Kecker's also been involved in some interesting intellectual property cases. In 1988, he successfully represented George Lucas on charges that some of the creatures in the "Star Wars" movies were based on ideas stolen from a science-fiction fan.

Kecker says that the key to a successful intellectual property case is getting judges to comprehend the technology. He says he can understand why some federal judges are uncomfortable when complex patent cases show up in their courts.

"They are appointed to deal with important matters," he says, "and there they are, stuck with something they can hardly understand at issue between two batches of arrogant engineers."

Kecker tries to avoid extraneous matter when he's trying cases. "[I] try to make the triers of fact feel like they are learning something they previously didn't have the capacity to learn about. Once you have that hook, they get terribly interested," he says.

Much as he loves intellectual property cases, Kecker does not enjoy the discovery in these cases. "It's too painstaking, [and] boring," he adds.

Kecker says that he is still a public defender at heart. Right now his caseload includes defending a youth charged with resisting arrest. "I care more about a person's freedom," he says, "than making money."